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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
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EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/648,942	CRAIN ET AL.
Examiner	Art Unit	
Tania C. Courson	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-33 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1-8,10-12,14-18,20-22,24-27 and 31-33 is/are rejected.

7) Claim(s) 9,13,19,23 and 28-30 is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 August 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_.

## **DETAILED ACTION**

### **Claim Objections**

1. Claims 14 and 24 recite the limitation "an axially facing surface" in lines 3,4 and 5. There is insufficient antecedent basis for this limitation in the specifications.
2. Claim 16 recites the limitation "of the first pole section" in line 2. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 23 is objected to because of the following informalities: On line 1, correct spelling from ".A surveying" to "A surveying". Appropriate correction is required.
4. Claim 29 is objected to because of the following informalities: On line 2, correct spelling from "surveying pole have a" to "surveying pole having a". Appropriate correction is required.

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### **Claim Rejections - 35 USC § 112**

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. The claim recites on lines 1-2 that the "surveying pole has threads". The specifications do not support this claim, it instead supports that the "first holder member 144 is formed to stow the shoe" (page 20, lines 17-18) and furthermore that the "first holder member 144 has a depending portion 162 which is formed with external threads" (page 20, lines 20-21), thus it is the "first holder member" that has the threads.

7. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim recites on line 2 that the "surveying pole (is) are formed for releasable interconnection". The specifications do not support this claim, it instead supports that the "first holder member 144 has a depending portion 162 which is formed with external threads" (page 20, lines 20-21), thus it is the "first holder member" that has the means/form for releasable interconnection.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 12 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Both claims recite on line 5 "first and second pole sections being closed at their ends" which signifies both top and bottom ends of the first and second pole sections being closed. The pole sections having closed ends would not allow the second pole

section to be “telescopingly received in the first pole section” as is stated initially in both claims on line 3.

10. Claims 9 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: a level vial. The level vial is the device that indicates vertical orientation, not the level vial holder.

11. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites “an object” (see line 2), “the object” (see lines 2, 3, 5 and 7) , “first pole section” (see line 9) and “surveying pole” (see line 11). One is to assume that “an/the object” is part of “the first pole section” and furthermore that “the first pole section” is part of the “surveying pole”. These relations are not clearly defined which would then lead claims 29-30 to lack an antecedent basis.

### **Claim Rejections - 35 USC § 102**

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall (1<sup>st</sup> interpretation).

Hall discloses in Figure 6, a device for holding surveyor's equipment comprising:

With respect to Claims 1-2:

a) one pole section (66), a point (86) mounted on the lower end of the pole section, a shoe (68,92) covering the point, both point and shoe having a releasable connection (90);

14. Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by Hall (2<sup>nd</sup> interpretation).

Hall discloses in Figure 6, a device for holding surveyor's equipment comprising:

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With respect to Claim 31:

a) one pole section (66), a point comprising of a body (68), a tip (92) formed for releasable interconnection (90) with the body (68), and the body (68) having a cavity therein to hold the spare tip (86).

### **Claim Rejections - 35 USC § 103**

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1, 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) in view of Allen.

Hall discloses device for holding surveyor's equipment comprising:

- a) one pole section (66) and a releasably mounted point (92) mounted on the lower end;
- b) a releasable tip/point (92), comprising of a cavity/hollow body (68) to enclose the spare tip/point (86).

Hall does not disclose a substantially flat bottom shoe covering the point and a shoe having a releasable connection.

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With respect to a substantially flat bottom shoe covering the point and a shoe having a releasable connection. Allen teaches an apparatus that consists of a substantially flat bottom shoe/cover (10,32) covering the point and a shoe/cover (10,32) having a releasable connection (28).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's equipment of Hall, so as to include a substantially flat bottom shoe covering the point and a shoe having a releasable connection, as taught by Hall, so as to provide an alternative means during use on different terrains.

17. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above.

Hall and Allen disclose a device, as stated above in paragraph 16. They further disclose a point formed for releasable connection, and the shoe having threads for connectivity. They do not disclose the point having threads for connectivity and the shoe made of polymeric material.

With respect to claim 3: Hall discloses a connecting means via a tight bolt (90) onto the section/body (68). The use of the particular type of connecting means claimed by applicant, i.e., connecting means via threads, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the tightening means of an object is applied, as already suggested by Hall, 2) the connecting means via threads claimed by Applicant and the connecting means via a tight bolt (90) onto the section/body (68) used by Hall are well known alternate types of connections which will perform the same function, if one is replaced with the other, of the tightening means of an object, and 3) the use of the particular type of connecting means via threads by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of connections that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to tighten an object as already suggested by Hall.

With respect to claim 4: Allen discloses the shoe/cover (10,32) made of a corrosion-resistant nonferrous material. The particular type of material used to make the shoe/cover (10,32) i.e., polymeric material, absent any criticality, is only considered to be the use of a "preferred" or "

optimum " material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant's apparatus, i.e., suitability for the intended use of Applicant's apparatus. See In re Leshin, 125 USPQ 416 (CCPA 1960 ) where the court stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious.

18. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Woods.

Hall and Allen disclose a device, as stated above in paragraph 16. They do not disclose a location away from the point for stowing the shoe and the shoe holder and shoe having a releasable connection.

With respect to a location away from the point for stowing the shoe and the shoe holder and shoe having a releasable connection, Woods teaches a surveying assembly that consists of a holder/apparatus (10) with a releasable connection/cradle (14) mounted on the pole at a location away from the point. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include a holder/apparatus with a releasable connection/cradle mounted on the pole at a location away from the point as taught by Woods, so as to provide a storing means for stowing any desired structure, such as the shoe, when not in use.

19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Bates, and further in view of Owac et al..

Hall and Allen disclose a device, as stated above in paragraph 16. They further disclose a the surveying pole comprising of more than one pole section and the second pole section (64) being telescopingly received in the first pole section (66). They do not disclose a lock to lock the second pole section, a lock comprising of a base mounted on the first pole section, a movable clamping jaw, and actuator for locking and unlocking in reference to the second pole section, a movable clamping jaw comprising of a rigid jaw member and an elastomeric pad to provide frictional resistance relative to the movement of the pole sections.

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With respect to a lock to lock the second pole section, a lock comprising of a base mounted on the first pole section, a movable clamping jaw, and actuator for locking and unlocking in reference to the second pole section and a movable clamping jaw comprising of a rigid jaw member, Bates teaches a telescopic measuring pole that consists of a lock (80) to lock the second pole section, a lock (80) comprising of a base (A) mounted on the first pole section, a movable clamping jaw (86), and actuator (82) for locking and unlocking in reference to the second pole section and a movable clamping jaw (86) comprising of a rigid jaw member (B) (see also Attachment #1, where letters A-B have been added by the examiner). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include a lock to lock the second pole section, a

lock comprising of a base mounted on the first pole section, a movable clamping jaw, and actuator for locking and unlocking in reference to the second pole section and a movable clamping jaw comprising of a rigid jaw member as taught by Bates, so as to provide a means for locking the pole sections into place .

With respect to an elastomeric pad to provide frictional resistance relative to the movement of the pole sections, Owac et al. teaches an apparatus that consists of an elastomeric pad/gripping sleeve (32) to provide frictional resistance relative to the movement of the pole sections. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include an elastomeric pad to provide frictional resistance relative to the movement of the pole sections as taught by Owac et al., so as to provide a means for reducing the movement of the pole sections.

20. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Heater.

Hall and Allen disclose a device, as stated above in paragraph 16. They further disclose a the surveying pole comprising of more than one pole section. They do not disclose the pole sections having a releasable, snap-together connection.

With respect to the pole section having a releasable, snap-together connection, Heater teaches a surveyor's rod having a releasable, snap-together connection between a first and second pole

section. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include the pole sections having a releasable, snap-together connection, as taught by Heater, so as to facilitate connection or releasing of the pole sections.

21. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Cameron.

Hall and Allen disclose a device, as stated above in paragraph 16. They further disclose a the surveying pole comprising of more than one pole section. They do not disclose at least at least one of the sections having an air escape orifice.

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With respect to the first and second pole sections closed at their ends, for purposes of this rejection, the Examiner has assumed that only the top of the second pole section and the bottom of the first pole section have closed ends. Hall teaches a device that consists of the top of the second pole section (64) and the bottom of the first pole section (66) having closed ends.

With respect to at least at least one of the sections having an air escape orifice, Cameron teaches a telescoping measuring stick that consists of a pole section (120 in Fig. 3A) having an air escape orifice (104 in Fig. 2A). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to

include an air escape orifice, as taught by Cameron, so as to provide a means for cushioning the retraction of the second pole section.

22. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Hansson et al..

Hall and Allen disclose a device, as stated above in paragraph 16. They do not disclose the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion.

With respect to the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion, Hansson et al. teaches a tool that consists of the fitting/coupling (9) having an axially facing surface (8) with a peripheral engagement portion consisting of a smaller (A) and larger portion (B) (see also Attachment #2, where letters A-B have been added by the examiner). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion, as taught by Hansson et al., so as to provide a coupling device with a means to attach other components to the pole section.

23. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) and Allen, as applied to claims 1, 6 and 16 as stated above, and further in view of Owac et al..

Hall and Allen disclose a device, as stated above in paragraph 16. They further disclose a level vial holder (104) comprising of a first and a second holder member with the two holder members engageable with the first pole section and interconnected via clamping, and the first holder member (116) being formed of a rigid material. They do not disclose an elastomeric pad as part of the second holder member (112) to provide frictional resistance.

With respect to an elastomeric pad as part as part of the second holder member to provide frictional resistance, Owac et al. teaches a level that consists of an elastomeric pad/gripping sleeve (32) to provide frictional resistance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall and Allen, so as to include elastomeric pad as part as part of the second holder member, as taught by Owac et al., so as to provide a means for reducing the axial movement of the level vial holder to the surveying pole

24. Claims 17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) in view of Allen and Woods.

Hall discloses device for holding surveyor's equipment comprising:  
a) one pole section (66) and a releasably mounted point (92) mounted on the lower end;

b) a releasable tip/point (92), comprising of a cavity/hollow body (68) to enclose the spare tip/point (86).

Hall does not disclose a shoe having a releasable connection and a remote location on the surveying pole for stowing the shoe.

With respect to a shoe having a releasable connection. Allen teaches an apparatus that consists of a shoe/cover (10,32) having a releasable connection (28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's equipment of Hall, so as to include a shoe having a releasable connection, as taught by Allen, so as to provide an alternative means during use on different terrains.

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With respect to a remote location on the surveying pole for stowing the shoe, Woods teaches an assembly that consists of remote location/assembly on the surveying pole having a connection/cradle (14) for stowing/holding an object (5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's equipment of Hall, so as to include a remote location on the surveying pole for stowing an object, as taught by Woods, so as to provide an a storing means for stowing any desired structure, such as a shoe, when not in use.

25. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), Allen and Woods, as applied to claims 17 and 26 as stated above, and further in view of Bates, and further in view of Owac et al..

Hall, Allen and Woods disclose a device, as stated above in paragraph 24. They further disclose a the surveying pole comprising of more than one pole section and the second pole section (64) being telescopingly received in the first pole section (66). They do not disclose a lock to lock the second pole section, a lock comprising of a base mounted on the first pole section, a movable clamping jaw, and actuator for locking and unlocking in reference to the second pole section, a movable clamping jaw comprising of a rigid jaw member and an elastomeric pad to provide frictional resistance relative to the movement of the pole sections.

With respect to a lock to lock the second pole section, a lock comprising of a base mounted on the first pole section, a movable clamping jaw, and actuator for locking and unlocking in reference to the second pole section and a movable clamping jaw comprising of a rigid jaw member, Bates teaches a telescopic measuring pole that consists of a lock (80) to lock the second pole section, a lock (80) comprising of a base (A) mounted on the first pole section, a movable clamping jaw (86), and actuator (82) for locking and unlocking in reference to the second pole section and a movable clamping jaw (86) comprising of a rigid jaw member (B) (see also Attachment #1, where letters A-B have been added by the examiner). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall, Allen and Woods, so as to include a lock to lock the second pole section, a lock comprising of a base mounted on the first pole section, a movable clamping jaw,

and actuator for locking and unlocking in reference to the second pole section and a movable clamping jaw comprising of a rigid jaw member as taught by Bates, so as to provide a means for locking the pole sections into place .

With respect to an elastomeric pad to provide frictional resistance relative to the movement of the pole sections, Owac et al. teaches an apparatus that consists of an elastomeric pad/gripping sleeve (32) to provide frictional resistance relative to the movement of the pole sections.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall, Allen and Woods, so as to include an elastomeric pad to provide frictional resistance relative to the movement of the pole sections as taught by Owac et al., so as to provide a means for reducing the movement of the pole sections.

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26. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), Allen and Woods, as applied to claims 17 and 26 as stated above, and further in view of Heater.

Hall, Allen and Woods disclose a device, as stated above in paragraph 24. They further disclose a the surveying pole comprising of more than one pole section. They do not disclose the pole sections having a releasable, snap-together connection.

With respect to the pole section having a releasable, snap-together connection, Heater teaches a surveyor's rod having a releasable, snap-together connection between a first and a second pole sections. Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to further modify the device of Hall, Allen and Woods, so as to include the pole sections having a releasable, snap-together connection, as taught by Heater, so as to facilitate connection or releasing of the pole sections.

27. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), Allen and Woods, as applied to claims 17 and 26 as stated above, and further in view of Cameron.

Hall, Allen and Woods disclose a device, as stated above in paragraph 24. They further disclose a the surveying pole comprising of more than one pole section. They do not disclose at least at least one of the sections having an air escape orifice.

With respect to the first and second pole sections closed at their ends, for purposes of this rejection, the Examiner has assumed that only the top of the second pole section and the bottom of the first pole section have closed ends. Hall teaches a device that consists of the top of the second pole section (64) and the bottom of the first pole section (66) having closed ends.

With respect to at least at least one of the sections having an air escape orifice, Cameron teaches a telescoping measuring stick that consists of a pole section (120 in Fig. 3A) having an air escape orifice (104 in Fig. 2A). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall, Allen and Woods, so as to include an air escape orifice, as taught by Cameron, so as to provide a means for cushioning the retraction of the second pole section.

28. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), Allen and Woods, as applied to claims 17 and 26 as stated above, and further in view of Hansson et al..

Hall, Allen and Woods disclose a device, as stated above in paragraph 24. They do not disclose the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion.

With respect to the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion, Hansson et al. teaches tool that consists of the fitting/coupling (9) having an axially facing surface (8) with a peripheral engagement portion consisting of a smaller (A) and larger portion (B) (see also Attachment #2, where letters A-B have been added by the examiner). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall, Allen and Woods, so as to include the fitting having an axially facing surface, and the axially facing surface having a peripheral engagement portion consisting of a smaller and larger portion, as taught by Hansson et al., so as to provide a coupling device with a means to attach other components to the pole section.

29. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), Allen and Woods, as applied to claims 17 and 26 as stated above, and further in view of Owac et al..

Hall, Allen and Woods disclose a device, as stated above in paragraph 24. They further disclose a level vial holder (104) comprising of a first and a second holder member with the two holder members engageable with the first pole section and interconnected via clamping, and the first holder member (116) being formed of a rigid material. They do not disclose an elastomeric pad as part of the second holder member (112) to provide frictional resistance.

With respect to an elastomeric pad as part as part of the second holder member to provide frictional resistance, Owac et al. teaches a level that consists of an elastomeric pad/gripping sleeve (32) to provide frictional resistance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device of Hall, Allen and Woods, so as to include elastomeric pad as part as part of the second holder member, as taught by Owac et al., so as to provide a means for reducing the axial movement of the level vial holder to the surveying pole

30. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation) in view of Owac et al..

Hall discloses a device for holding surveyor's instrument comprising:

- a) one object/pole section (66);
- b) a level vial holder (104) comprising of a first holder member (116) formed of a rigid material and a second holder member (112) engageable with a first pole section and interconnected via clamping.

Hall does not disclose an elastomeric pad as part of the second holder member (112) to provide frictional resistance.

With respect to an elastomeric pad as part as part of the second holder member to provide frictional resistance, Owac et al. teaches a level that consists of an elastomeric pad/gripping sleeve (32) to provide frictional resistance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's instrument of Hall, so as to include elastomeric pad as part as part of the second holder member, as taught by Owac et al., so as to provide a means for reducing the axial movement of the level vial holder to the surveying pole

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31. ~~Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup>~~

~~interpretation), as applied to claim 31, as stated above, and further in view of Allen.~~

Hall discloses a device for holding surveyor's equipment as stated above in paragraph 14. Hall does not disclose a shoe covering the point and a shoe having a releasable connection.

With respect to a shoe covering the point and a shoe having a releasable connection. Allen teaches an apparatus that consists of a shoe/cover (10,32) covering the point and a shoe/cover (10,32) having a releasable connection (28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's equipment of Hall, so as to include a shoe covering the point and a shoe

having a releasable connection, as taught by Hall, so as to provide an alternative means during use on different terrains

32. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (2<sup>nd</sup> interpretation), as applied to claim 31, as stated above, and further in view of Woods.

Hall discloses a device for holding surveyor's equipment as stated above in paragraph 14. Hall does not disclose a remote connector element having a releasable connection for stowing the shoe.,

With respect to a remote connector element having a releasable connection for stowing the shoe, Woods teaches an assembly that consists of remote connector element /assembly having a releasable connection/ cradle (14) for stowing/holding the shoe/object (5).—Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for holding surveyor's equipment of Hall, so as to include a remote connector element having a releasable connection for stowing the shoe, as taught by Woods, so as to provide an a storing means for stowing any desired structure, such as a shoe, when not in use.

33. With respect to Claims 5 and 18: The prior art of record has not been applied to these claims due to the confusing claim language as stated above in paragraphs 6 and 7.

### **Allowable Subject Matter**

34. Claims 9, 19, 23 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form correcting the claim objections and including all of the limitations of the base claim and any intervening claims.

35. Claims 13, 28 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on PTO-892 and not mentioned above disclosed relative devices.

a) Cobb discloses a tubing anchor assembly; b) Heroux discloses a sight rod level; c) Duggan discloses an end fitting having adhesive channels; d) Petzetakis discloses a pipe coupling part; e) Burgess et. al. disclose a prism pole; f) Wilson et. al. disclose a locking device for telescoping member; g) Worollo discloses a measuring apparatus; h) Schafer discloses a stepping staff; i) Palumbo II discloses a laser apparatus; j) Gruetzmacher discloses a pocket level; k) Fatool et. al. disclose a telescoping device with stop mechanism; l) Newman Jr. et al. discloses an extension handle apparatus; m) Pasternak et al. discloses an adjustable telescoping utility pole; and n) Vischer discloses an alignment apparatus.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Courson whose telephone number is (703) 305-3031. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax number for this Organization where this application or proceeding is assigned is (703) 305-3431.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



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TC  
February 11, 2002